

### **REMARKS**

Claims 58-75 are currently pending in the subject application and are presently under consideration. Claims 58, 72, and 73 have been amended as shown on pages 2-6 of this submission. Claims 78 and 79 are new.

Applicant's representative thanks Examiner Smalley for the courtesies extended during the telephonic interview conducted on August 22, 2007. Examiner was contacted to discuss amendments to overcome rejection under 35 U.S.C. §103(a) and interpretation of the cited references Ohmi *et al.* (U.S. 5, 762,217), Bosl *et al.* (U.S. 5,848,717), and Towns *et al.* (U.S. 5,368,178). Examiner suggested elements 20 and 22 in Fig. 10 and Fig. 15 could be claimed and place the application in a better condition for allowance. Amendments claiming such aspects have been made to claims 58, 72, and 73. Specifically, the respective claims now include limitations related to an engagement device with circumferentially shorter engagement surfaces on each lug adjacent to an initial lug.

Favorable reconsideration of the subject patent application is respectfully requested in view of comments and amendments herein.

#### **I. Rejection of Claims 58-75 Under 35 U.S.C. §103(a)**

Claims 58-75 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bosl *et al.* (U.S. 5,848,717) in view of Ohmi *et al.* (U.S. 5,762,217). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Bosl *et al.* and Ohmi *et al.*, along or in combination, fail to teach each and every limitation of applicant's claimed invention.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The subject claims relate to a container closure assembly for pressurized products. In particular, the container closure assembly includes an engagement device joined with each lug where two lugs adjacent to an initial lug have a circumferentially shorter engagement surface than other lugs. To this end, independent claim 58 (and similarly independent claims 72 and 73) recites *the engagement device joined with lugs adjacent to an initial lug have circumferentially shorter engagement surfaces than other segmented lugs*.

Bosl *et al.* discloses a container closure assembly that uses a pull off ring to facilitate removing the container cap. Bosl *et al.* does not disclose a plurality of segmented lugs. Examiner concedes this point on page 2 of the Office Action dated July 3, 2007. Furthermore, Bosl *et al.* does not disclose an engagement device on each lug where two lugs adjacent to an initial lug have circumferentially shorter engagement surfaces than other segmented lugs.

Additionally, Ohmi *et al.* in combination with Bosl *et al.* does not teach or disclose all features recited in amended claims 58, 72, and 73. Ohmi *et al.* discloses a container closure in which the lugs and engagement surfaces are uniform throughout the circumference of the container closure. (*See e.g.* Fig. 3). Furthermore, Examiner noted this aspect of Ohmi *et al.* in the Examiner Interview that transpired on August 22, 2007. Thus, Ohmi *et al.* does not disclose a shorter engagement surface on lugs adjacent to an initial lug.

Applicant's claimed subject matter, in contrast, discloses an engagement device with surfaces on lugs adjacent to an initial lug that are shorter than other lugs of the closure. In conventional closures, the engagement surfaces are consistent in length around the perimeter of the container. The recited claims provide improvements that conventional closures do not achieve. The subject invention provides the added benefit of reducing the peeling effect when the initial lug is disengaged from the container rim because of the shortened engagement surfaces. Moreover, the added advantage of increasing the engagement force of the initial lug to the container rim is accomplished *via* disclosed aspects.

In view of at least the foregoing, it is readily apparent that Bosl *et al.* and Ohmi *et al.*, alone or in combination, do not teach or suggest applicant's invention as recited in independent claims 58, 72, and 73 (and claims 59-71, 74, and 75 which respectively depend there from), and thus fails to make obvious the subject claimed invention. Accordingly, this rejection should be withdrawn.

**II. Rejection of Claims 58-75 Under 35 U.S.C. §103(a)**

Claims 58-75 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Towns *et al.* (U.S. 5,368,178) in view of Ohmi *et al.* (U.S. 5,762,217). This rejection should be withdrawn for at least the following reasons. Towns *et al.* alone or in combination with Ohmi *et al.*, does not teach or suggest every feature of the subject claims.

Towns *et al.* discloses a container closure assembly comprising a plastic cap a pull off cap snap-fit over a bottle opening. Towns *et al.* does not disclose a plurality of segmented lugs, and Examiner concedes this point on page 4 of the Office Action dated July 3, 2007. In addition, Towns *et al.* does not disclose an engagement device on each lug where two lugs adjacent to an initial lug have circumferentially shorter engagement surfaces than the other segmented lugs. Furthermore, as discussed above with respect to independent claims 58, 72, and 73, Ohmi *et al.* fails to teach or suggest *the engagement device joined with lugs adjacent to an initial lug have circumferentially shorter engagement surfaces than other segmented lugs*.

Therefore, it is readily apparent that Towns *et al.* and Ohmi *et al.*, alone or in combination, do not teach or suggest applicant's claimed subject matter as recited in independent claims 58, 72 and 73 (and claims 59-71, 74, and 75 which respectively depend there from), and thus fails to make obvious the subject claimed invention. As such, this rejection should be withdrawn.

**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

It is believed that no fees are due in connection with this document. In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [NOVAP100US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,  
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